

Federal Reserve System

§ 204.8

continued maintenance of supplemental reserves and shall transmit annual reports to the Congress regarding the need for continuing such requirement.

(2) Any supplemental reserve requirement shall terminate at the close of the first 90-day period after the requirement is imposed during which the average amount of supplemental reserves required are less than the amount of reserves which would be required if the ratios in effect on September 1, 1980, were applied.

(c) *Earnings Participation Account.* A depository institutions's supplemental reserve requirement shall be maintained by the Federal Reserve Banks in an Earnings Participation Account. Such balances shall receive earnings to be paid by the Federal Reserve Banks during each calendar quarter at a rate not to exceed the rate earned on the securities portfolio of the Federal Reserve System during the previous calendar quarter. Additional rules and regulations may be prescribed by the Board concerning the payment of earnings on Earnings Participation Accounts by Federal Reserve Banks.

(d) *Report to Congress.* The Board shall transmit promptly to the Congress a report stating the basis for exercising its authority to require a supplemental reserve under this section.

(e) *Reserve requirements.* At present, there are no supplemental reserve requirements imposed under this section.

[45 FR 56018, Aug. 22, 1980, as amended at 45 FR 81537, Dec. 11, 1980. Redesignated at 74 FR 25639, May 29, 2009]

§ 204.8 International banking facilities.

(a) *Definitions.* For purposes of this part, the following definitions apply:

(1) *International banking facility* or *IBF* means a set of asset and liability accounts segregated on the books and records of a depository institution, United States branch or agency of a foreign bank, or an Edge or Agreement Corporation that includes only international banking facility time deposits and international banking facility extensions of credit.

(2) *International banking facility time deposit* or *IBF time deposit* means a deposit, placement, borrowing or similar obligation represented by a promissory

note, acknowledgment of advance, or similar instrument that is not issued in negotiable or bearer form, and

(i)(A) That must remain on deposit at the IBF at least overnight; and

(B) That is issued to

(1) Any office located outside the United States of another depository institution organized under the laws of the United States or of an Edge or Agreement Corporation;

(2) Any office located outside the United States of a foreign bank;

(3) A United States office or a non-United States office of the entity establishing the IBF;

(4) Another IBF; or

(5) A foreign national government, or an agency or instrumentality thereof,¹⁰ engaged principally in activities which are ordinarily performed in the United States by governmental entities; an international entity of which the United States is a member; or any other foreign international or supranational entity specifically designated by the Board;¹¹ or

(ii) (A) That is payable

(1) On a specified date not less than two business days after the date of deposit;

(2) Upon expiration of a specified period of time not less than two business days after the date of deposit; or

(3) Upon written notice that actually is required to be given by the depositor not less than two business days prior to the date of withdrawal;

(B) That represents funds deposited to the credit of a non-United States resident or a foreign branch, office, subsidiary, affiliate, or other foreign establishment (*foreign affiliate*) controlled by one or more domestic corporations provided that such funds are used only to support the operations outside the United States of the depositor or of its affiliates located outside the United States; and

(C) That is maintained under an agreement or arrangement under which no deposit or withdrawal of less than \$100,000 is permitted, except that a

¹⁰ Other than states, provinces, municipalities, or other regional or local governmental units or agencies or instrumentalities thereof.

¹¹ The designated entities are specified in 12 CFR 204.125.

§ 204.8

12 CFR Ch. II (1–14 Edition)

withdrawal of less than \$100,000 is permitted if such withdrawal closes an account.

(3) *International banking facility extension of credit or IBF loan* means any transaction where an IBF supplies funds by making a loan, or placing funds in a deposit account. Such transactions may be represented by a promissory note, security, acknowledgment of advance, due bill, repurchase agreement, or any other form of credit transaction. Such credit may be extended only to:

(i) Any office located outside the United States of another depository institution organized under the laws of the United States or of an Edge or Agreement Corporation;

(ii) Any office located outside the United States of a foreign bank;

(iii) A United States or a non-United States office of the institution establishing the IBF;

(iv) Another IBF;

(v) A foreign national government, or an agency or instrumentality thereof,¹² engaged principally in activities which are ordinarily performed in the United States by governmental entities; an international entity of which the United States is a member; or any other foreign international or supranational entity specifically designated by the Board;¹³ or

(vi) A non-United States resident or a foreign branch, office, subsidiary, affiliate or other foreign establishment (*foreign affiliate*) controlled by one or more domestic corporations provided that the funds are used only to finance the operations outside the United States of the borrower or of its affiliates located outside the United States.

(b) *Acknowledgment of use of IBF deposits and extensions of credit.* An IBF shall provide written notice to each of its customers (other than those specified in § 204.8(a)(2)(i)(B) and § 204.8(a)(3)(i) through (v)) at the time a deposit relationship or a credit relationship is first established that it is the policy of the Board of Governors of the Federal Reserve System that deposits received by international banking facilities may be used only to support the de-

positor's operations outside the United States as specified in § 204.8(a)(2)(ii)(B) and that extensions of credit by IBFs may be used only to finance operations outside of the United States as specified in § 204.8(a)(3)(vi). In the case of loans to or deposits from foreign affiliates of U.S. residents, receipt of such notice must be acknowledged in writing whenever a deposit or credit relationship is first established with the IBF.

(c) *Exemption from reserve requirements.* An institution that is subject to the reserve requirements of this part is not required to maintain reserves against its IBF time deposits or IBF loans. Deposit-taking activities of IBFs are limited to accepting only IBF time deposits and lending activities of IBFs are restricted to making only IBF loans.

(d) *Establishment of an international banking facility.* A depository institution, an Edge or Agreement Corporation or a United States branch or agency of a foreign bank may establish an IBF in any location where it is legally authorized to engage in IBF business. However, only one IBF may be established for each reporting entity that is required to submit a Report of Transaction Accounts, Other Deposits and Vault Cash (Form FR 2900).

(e) *Notification to Federal Reserve.* At least fourteen days prior to the first reserve computation period that an institution intends to establish an IBF it shall notify the Federal Reserve Bank of the district in which it is located of its intent. Such notification shall include a statement of intention by the institution that it will comply with the rules of this part concerning IBFs, including restrictions on sources and uses of funds, and recordkeeping and accounting requirements. Failure to comply with the requirements of this part shall subject the institution to reserve requirements under this part or result in the revocation of the institution's ability to operate an IBF.

(f) *Recordkeeping requirements.* A depository institution shall segregate on its books and records the asset and liability accounts of its IBF and submit

¹² See footnote 10.

¹³ See footnote 11.

Federal Reserve System

§ 204.10

reports concerning the operations of its IBF as required by the Board.

[46 FR 32429, June 23, 1981, as amended at 51 FR 9636, Mar. 20, 1986; 56 FR 15495, Apr. 17, 1991; 61 FR 69025, Dec. 31, 1996]

§ 204.9 Emergency reserve requirement.

(a) *Finding by Board.* The Board may impose, after consulting with the appropriate committees of Congress, additional reserve requirements on depository institutions at any ratio on any liability upon a finding by at least five members of the Board that extraordinary circumstances require such action.

(b) *Term.* Any action taken under this section shall be valid for a period not exceeding 180 days, and may be extended for further periods of up to 180 days each by affirmative action of at least five members of the Board for each extension.

(c) *Reports to Congress.* The Board shall transmit promptly to Congress a report of any exercise of its authority under this paragraph and the reasons for the exercise of authority.

(d) *Reserve requirements.* At present, there are no emergency reserve requirements imposed under this section.

[45 FR 56018, Aug. 22, 1980. Redesignated at 74 FR 25638, May 29, 2009]

§ 204.10 Payment of interest on balances.

(a) *Payment of interest.* The Federal Reserve Banks shall pay interest on balances maintained at Federal Reserve Banks by or on behalf of an eligible institution as provided in this section and under such other terms and conditions as the Board may prescribe.

(b) *Rate.* Except as provided in paragraph (c) of this section, Federal Reserve Banks shall pay interest at the following rates—

(1) For balances up to the top of the penalty-free band, at $\frac{1}{4}$ percent;

(2) For excess balances, at $\frac{1}{4}$ percent; or

(3) For balances up to the top of the penalty-free band, excess balances, and term deposits, at any other rate or rates as determined by the Board from time to time, not to exceed the general level of short-term interest rates. For purposes of this subsection, “short-

term interest rates” are rates on obligations with maturities of no more than one year, such as the primary credit rate and rates on term federal funds, term repurchase agreements, commercial paper, term Eurodollar deposits, and other similar instruments.

(c) *Pass-through balances.* A pass-through correspondent that is an eligible institution may pass back to its respondent interest paid on balances maintained to satisfy a reserve balance requirement of that respondent. In the case of balances maintained by a pass-through correspondent that is not an eligible institution, a Reserve Bank shall pay interest only on the balances maintained to satisfy a reserve balance requirement of one or more respondents up to the top of the penalty-free band, and the correspondent shall pass back to its respondents interest paid on balances in the correspondent’s account.

(d) *Excess balance accounts.* (1) A Reserve Bank may establish an excess balance account for eligible institutions under the provisions of this paragraph (d). Notwithstanding any other provisions of this part, the excess balances of eligible institutions in an excess balance account represent a liability of the Reserve Bank solely to those participating eligible institutions.

(2) The participating eligible institutions in an excess balance account shall authorize another institution to act as agent of the participating institutions for purposes of general account management, including but not limited to transferring the excess balances of participating institutions in and out of the excess balance account. An excess balance account must be established at the Reserve Bank where the agent maintains its master account, unless otherwise determined by the Board. The agent may not commingle its own funds in the excess balance account.

(3) Balances maintained in an excess balance account will not satisfy any institution’s reserve balance requirement.

(4) An excess balance account must be used exclusively for the purpose of maintaining the excess balances of participants and may not be used for general payments or other activities.